

# HOUSE BILL No. 1169

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-3-2-14; IC 35-46-1-11.8.

**Synopsis:** Tobacco retailers. Prohibits cigarette manufacturers and distributors from requiring retailers to engage in certain display or advertising practices as a condition to participate in certain marketing promotions.

**Effective:** July 1, 2002.

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**Kuzman**

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January 9, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1169

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 24-3-2-14 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2002]: **Sec. 14. (a) Except as provided in subsection (c), a**  
4 **cigarette manufacturer or distributor may not, as a condition of a**  
5 **retailer's receipt of a cigarette price, participation in a product**  
6 **promotion, or any compensation, rebate, or other inducement**  
7 **relating to the promotion, require any of the following:**

8           (1) A retailer to allocate to the manufacturer a percentage or  
9 non-defined area or amount of the retailer's in-store or  
10 on-premises cigarette display, signage, or advertising space.

11          (2) A retailer to participate or not participate in a price,  
12 merchandising, or promotional program of another  
13 manufacturer or distributor.

14          (b) A cigarette manufacturer or distributor may not provide a  
15 retailer with a monetary payment or other compensation to limit  
16 the area of the retailer's in-store or on-premises cigarette display,  
17 signage, or advertising space that is provided to another cigarette



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1 manufacturer or to a cigarette category.

2 (c) A cigarette manufacturer or distributor may provide a  
3 retailer with a monetary payment or other compensation for a  
4 specific defined area of the retailer's in-store or on-premises  
5 cigarette display, signage, or advertising space.

6 (d) A person who suffers damages because of an act or omission  
7 by a cigarette manufacturer or distributor under this section is  
8 entitled to compensation for actual damages, prejudgment interest,  
9 punitive damages, reasonable attorney's fees, and court costs.

10 SECTION 2. IC 35-46-1-11.8 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2002]: Sec. 11.8. (a) This section does not  
13 apply to the following:

14 (1) A retail establishment that derives at least seventy-five  
15 percent (75%) of the establishment's revenue from tobacco  
16 and tobacco related products.

17 (2) A retail establishment that prohibits an individual who is  
18 less than eighteen (18) years of age to enter the establishment.

19 (b) A retail establishment may not offer for sale or display  
20 individual packages of cigarettes that allow a customer access to  
21 the cigarettes without the assistance of an employee of the retail  
22 establishment.

23 (c) A person who violates this section commits a Class C  
24 infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for  
25 an infraction committed under this section must be imposed as  
26 follows:

27 (1) If the person has not been cited for a violation of this  
28 section in the previous ninety (90) days, a civil penalty of fifty  
29 dollars (\$50).

30 (2) If the person has had one (1) violation in the previous  
31 ninety (90) days, a civil penalty of one hundred dollars (\$100).

32 (3) If the person has had two (2) violations in the previous  
33 ninety (90) days, a civil penalty of two hundred fifty dollars  
34 (\$250).

35 (4) If the person has had three (3) or more violations in the  
36 previous ninety (90) days, a civil penalty of five hundred  
37 dollars (\$500).

38 A person may not be cited more than once every twenty-four (24)  
39 hours.

40 (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected  
41 under this section must be deposited in the youth tobacco education  
42 and enforcement fund established under IC 7.1-6-2-6.



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